

Claim 20 (New). The laminate of claim 1, wherein the first and second layers are microembossed.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Applicants request that this be considered a petition therefore. Please charge the required fee to Deposit Account No. 14-1263.

ADDITIONAL FEES

Please charge any further insufficiency of fees, or credit any excess to Deposit Account No. 14-1263.

REMARKS

Claims 1-6 are in the application; claim 7 has been canceled by this amendment.

Claims 1-7 have been rejected under 35 USC § 112, 2<sup>nd</sup> ¶, as allegedly being indefinite. Applicants believe that foregoing amendments to the claims and the ensuing remarks are sufficient to overcome the rejections.

INDEFINITENESS

1. Examiner has requested clarification of the language of claim 1 reciting *a microscopic effect, a macroscopic effect, or both*.

This has been addressed by amending in claim 1, the terms microscopic and macroscopic to *microembossed* and *macroembossed*, respectively.

Applicants express their good faith belief that this amendment overcomes the indefiniteness rejection of claim 1, and respectfully solicits that the rejection be withdrawn.

2. Claim 6 has been amended to recite "least 65 wt.-%,..."

3. Claim 4 was rejected because the term "the polyolefin" allegedly lacks antecedent basis.

This was addressed by the amending claim 4 from "polyolefin" to "copolymer."

#### ANTICIPATION

Claims 1-4 were rejected under 35 USC § 102(a) as being anticipated by US 6,096,668 to Abuto et al., ("Abuto").

In response, Applicants delete claim 7, which was not included in this rejection and incorporate the limitations therein into amended claim 1. Accordingly, claim 1 is no longer within the rejection and the rejection is overcome by the amendment.

Applicants respectfully solicit withdrawal of the rejection.

#### OBVIOUSNESS

Claims 5 and 7 were rejected under 35 USC § 103(a) over Abuto in view of US 5,354,597 to Capik. Claim 7 is deleted as discussed above.

Claim 6 was rejected over Abuto alone.

In response, Applicants point out that amended claim 1 now recites that a self-adhesive is applied to the textile/nonwoven layer of the laminate. This alone is sufficient to overcome the obviousness rejections of claims 5 and 6.

The combination of Abuto with Capik does not disclose or suggest a laminate comprising a nonwoven textile layer, a tie layer, and a polymer film, and wherein the textile layer has an adhesive applied.

Capik discloses an elastomeric laminate comprising an elastomeric layer interposed between two thin skin layers, one having an adhesive. There is no nonwoven textile layer, and both outer layers are the "thin skin" polymer layers, one

of which has an adhesive. Therefore, in Capik, a thin polymer film with adhesive *must be* the skin-adherent side of the laminate. This is the opposite of Applicants' laminate wherein the textile layer adheres to the skin.

Abuto does not teach the use of adhesives, therefore it cannot teach or suggest upon which side of the laminate is to be the adhesive-bearing, skin-adherent side. Note, the only reference to the sidedness of the laminate is that the extensible fibrous material comprises the "*outer layer*." E.g., Abstract; col. 10 line 16; claim 1, line 3. Therefore, the most reasonable interpretation is that Abuto's nonwoven layer is outer, or the non-skin adherent layer. This is the opposite of Applicants' laminate.

If Abuto and Capik are conceptually and/or physically combined, what results is a laminate, with an *outer* nonwoven fibrous layer and an *inner*, skin-adherent adhesive-bearing polymer film. This is the exact opposite of amended claim 1. In effect, combined teachings and suggestions of Abuto and Capik teach away from amended claim 1.

Applicants respectfully remind Examiner that to maintain an obviousness rejection it is not sufficient that Capik and Abuto *may be* combined to approximate the claimed laminate. It is *required* that the combination of references *actually suggests the desirability of making it*. MPEP § 2143.01. In view of their contrary teachings and suggestions, Capik and Abuto cannot be reasonably viewed as teaching or suggesting the claimed laminate.

As described above, the cited combination of references cannot reasonably suggest the desirability of the claimed invention, and therefore the obviousness rejection should be withdrawn. MPEP § 2143.01

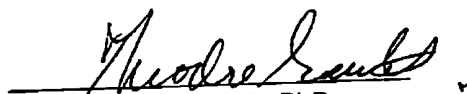
#### CONCLUSION

Reconsideration of the application is respectfully solicited.

The foregoing remarks explain in detail why one with ordinary skill in the art would not have been able to extract any suggestion for Applicants' claimed laminate from the Capik and Abuto references.

Accordingly, withdrawal of the rejections and allowance of the claims is respectfully solicited.

Respectfully submitted



Theodore A. Gottlieb, PhD  
Reg. No. 42,597  
Norris, McLaughlin & Marcus  
220 East 42<sup>nd</sup> Street  
New York, NY 10017  
Telephone (646) 487-5675  
Facsimile (212) 808-0844

**MARK UP OF AMENDED CLAIMS**

Claim 1 (Amended twice). Laminate composed of at least a first layer of an elastic polymer film and of a second layer of an elastic textile sheet, where the finished laminate has either a either a microscopic microembossed effect, a ~~macroscopic~~ macroembossed effect, or both, and

wherein a self-adhesive coating has been applied onto the textile sheet side.

Claim 4 (Amended twice). Laminate according to claim 1, wherein the polymer film of the first layer is a copolymer of ethylene and an  $\alpha$ -olefin having a carbon number from C<sub>4</sub>-C<sub>10</sub>, where the copolymer ~~polyolefin~~ has a melt index of from 1 to 20 g/(10 min) and density of from 860 to 900 kg/m<sup>3</sup>.

Claim 6 (Amended twice) Laminate according to claim 1, wherein the polymer film of the first layer comprises at least 65 wt.-% % of a thermoplastic elastomer.